Application No.: 09/396,702

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gupta et al.

Application No.: 09/396,702

Confirmation No.: 7828

Filed: September 15, 1999

Art Unit: 2165

For: INTERACTIVE PLAYLIST GENERATION
USING ANNOTATIONS

Examiner: A. M. Mofiz

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

As required under 37 C.F.R. § 41.37(a), this brief is in furtherance of the Notice of Appeal in this application filed on January 19, 2006. The fees required under 37 C.F.R. § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37. The complete Table of Contents follows.

[41826-8757-US0000/SL061290.017]

CONTENTS

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Microsoft Corporation of Redmond, Washington.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

Applicant, applicant's legal representative, and the assignee are unaware of any prior or pending appeals, interferences, or judicial proceedings that may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in this pending appeal, except for the prior appeal in this application.

In the prior appeal, applicant filed a notice of appeal on September 21, 2004 and an appeal brief on December 15, 2004. In reply to the appeal brief, the Examiner withdrew the rejections that were the subject of the prior appeal and entered new grounds of rejection on February 14, 2005.

III. STATUS OF THE CLAIMS

Claims 1-6, 12-13, 34-37, and 48-51 are pending.

Claims 7-11, 14-33, 38-47, and 52-91 have been canceled.

Applicant appeals the rejection of each pending claim.

IV. STATUS OF AMENDMENTS

No amendment has been filed subsequent to the final rejection.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

A. Overview of the Invention and Prior Art

1. The Invention

Applicant's invention is a technique for adding annotations to portions of a video, allowing a user to change the order of the annotations, and then presenting the annotations and corresponding portions of the video based on the changed order.[1] An

---

[1] Although the claims use the term "media stream," in the brief applicant uses the term "video," which is an example of a media stream.

annotation is data (e.g., text and audio) that is added as a comment to a portion of a video. (Specification, 2:19-3:4.) As an example, a video may be made of a lesson presented by an instructor without a live audience. The instructor can then add annotations to the video at various locations to provide comments on the presentation. In addition, students can add annotations asking questions, and the instructor can later add annotations with answers to those questions. Students can then view the entire video along with the annotations.

Applicant's invention allows greater flexibility in the viewing of a video with annotations. In particular, applicant's invention allows a user to select an ordering of annotations and then have the annotations and the corresponding portions of the video played back in that order. For example, a student can be presented with a list containing the names and summaries of the annotations of a video relating to geometry. The student can reorder the list of the annotations so that annotations relating to descriptions of theorems are at the beginning of the list and annotations relating to proofs of the theorems are at the end of the list. The student can then view the annotations and corresponding portions of the video in the specified order.

2.　Chen[2]

Chen describes a technique for organizing and retrieving a video that is made available via the web. Chen describes associating meta-information with a video, such as a hierarchical structure of the video and annotations for the video, and also describes dynamic composition of a video. Chen, however, does not describe reordering of a video and in particular does not describe reordering based on the ordering of annotations. Applicant will first describe Chen's hierarchical structure and then describe annotations and dynamic composition, which both make use of hyperlinks. As will be apparent by the description, Chen's concepts of hierarchical structure, annotations, and dynamic

---

[2] Chen, et al., "Video and Audio: Organization and Retrieval in the WWW."

composition are independent of each other in that each can be implemented separately and each does not rely on the other concepts.

a.   Hierarchical Structure

Chen allows a user to define the hierarchical structure of a video. A hierarchical structure divides a video into clips, each clip into shots, and each shot into frames as illustrated by Figure 2 of Chen, which is reproduced below:

Movie: Engineering College and CS Department at UIUC	
Clips	*Shots*
Engineering College Overview (frames 1-6355)	*Campus Overview(1-1203)*
	Message from Dean(1204-2566)
	One lab tour(2567-4333)
	. . .
Computer Science Department (frames 6356-12003)	*DCL Tour and Overview (6400-8000)*
	Instruction Lab Tour (8001-9654)
	Interview with a Undergraduate Student (9655-11000)
	. . .

Figure 2: Hierarchical organization and indexing of a movie

Figure 2 illustrates that the movie, entitled "Engineering College and CS Department at UIUC," contains two clips. The first clip, entitled "Engineering College Overview," includes frames 1-6355 of the movie and is subdivided into several shots. The first shot, entitled "Campus Overview," includes frames 1-1203; the second shot, entitled "Message from Dean," includes frames 1204-2566; and so on.

Chen's hierarchical structure "enables a non-linear view of video" in that a user can access "any desired clip, and any desired shot." (Chen, p. 7.) Figure 4 of Chen illustrates a user interface that gives "users a global picture of what the movie and each part is about." (*Id.*) Figure 4 is reproduced below:
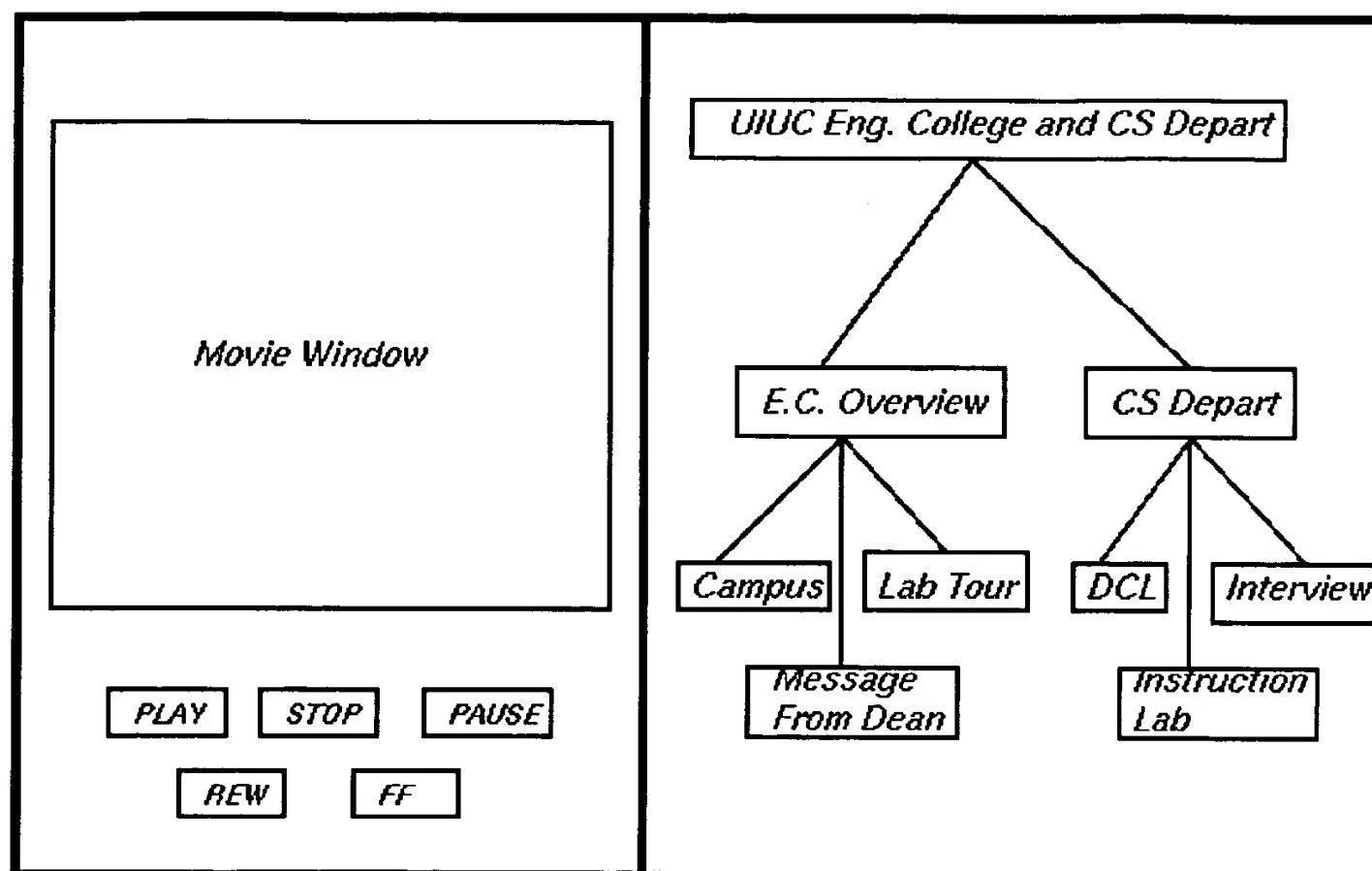
Figure 4: Display of a movie along with its hierarchical architecture.

The right panel of Figure 4 provides a graphical view of the hierarchical structure defined in Figure 2. When a user clicks on a node of the graphical view, the clip or shot corresponding to the node is displayed in the movie window of the left panel.

Chen's hierarchical structure does not use annotations or hyperlinks, which are described below. Rather, the hierarchical structure is an index that maps titles of clips and shots to the corresponding frames as shown in Figure 2 of Chen.

b.   Annotations

Chen allows a user to add annotations, which can include hyperlinks, to a video. An annotation with a hyperlink works much like a hyperlink on a web page. In particular, the hyperlinks within annotations make "objects within video streams *anchors* for other

documents." (Chen, p. 10.) When viewing the video, a user can click within an outline of
an object in the video to view the linked document. Chen further describes annotations as
follows:

> Annotations describe how a certain object within a continuous media stream [video]
> is related to some other object. Hyperlinks can be embedded to indicate this
> relationship. For example, a hyperlink can be made for a interesting object in a
> movie which leads to related information. Annotation information allows the
> browsing [of] continuous media and can make video and audio integrated with static
> data types like text and images.

(Chen, p. 6.) Figure 6 of Chen shows a square outline for a black hole object that has an
annotation with a hyperlink to an HTML document about black holes. When the user clicks
on the outline, Chen retrieves and displays the HTML document. A portion of Figure 6 is
reproduced below:
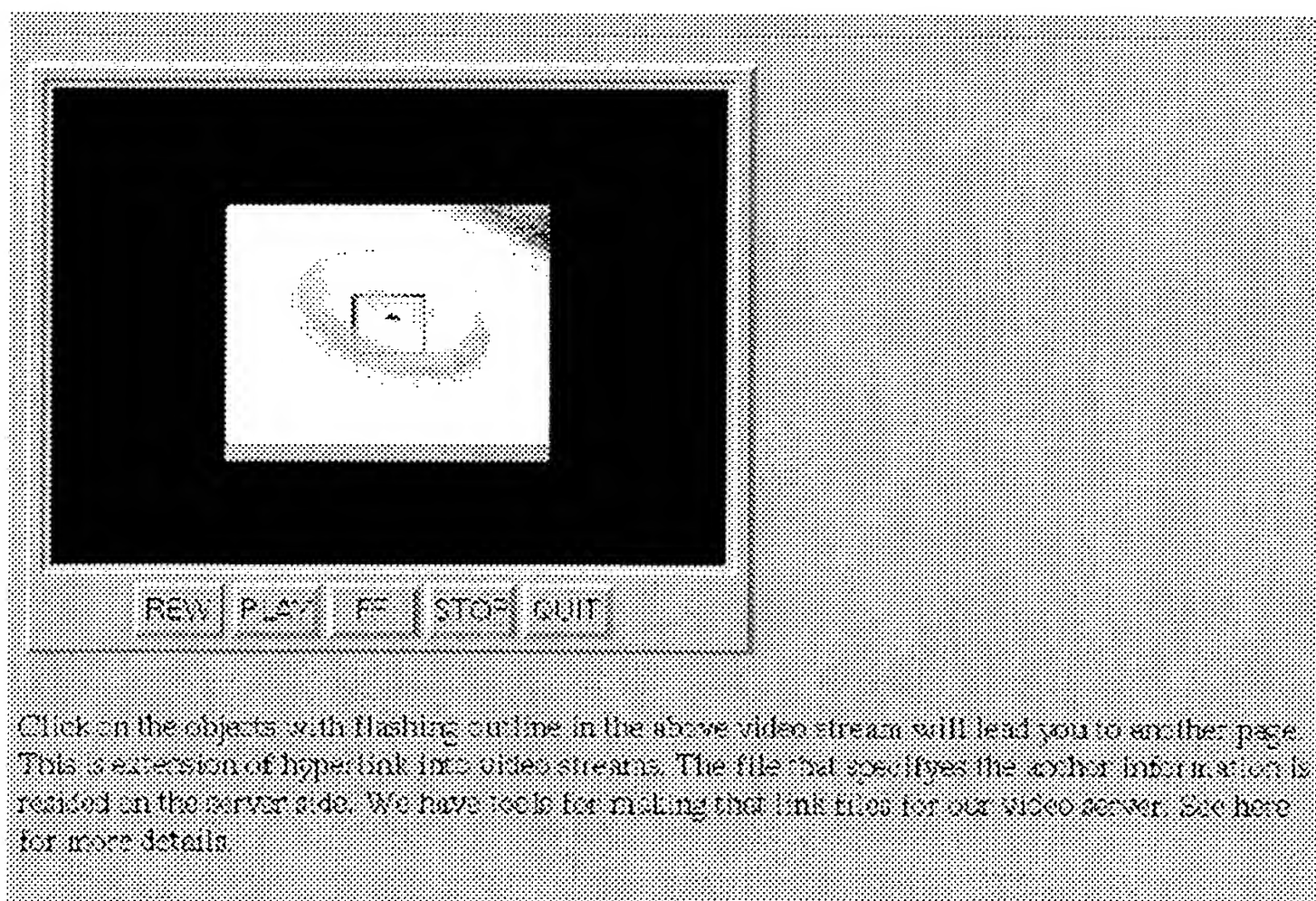
c.   Dynamic Composition

Chen allows a user to create[3] a video that references parts of different existing videos without actually copying the parts into the video. Rather, a user who is creating a video can add to the video hyperlinks to portions of existing videos. For example, a hyperlink may reference a particular clip of an existing video. When the video is presented, the video is dynamically composed by displaying frames that are physically within the video and, when a dynamic composition hyperlink to a clip is encountered in the video, the clip is retrieved from the referenced video and displayed as part of the presentation. The retrieving of shots or clips from another video and the insertion of them into the current presentation is referred to by Chen as "dynamic composition."

Figure 7 of Chen illustrates a video that includes hyperlinks for dynamic composition of the video. Figure 7 with reference numerals added is reproduced below:
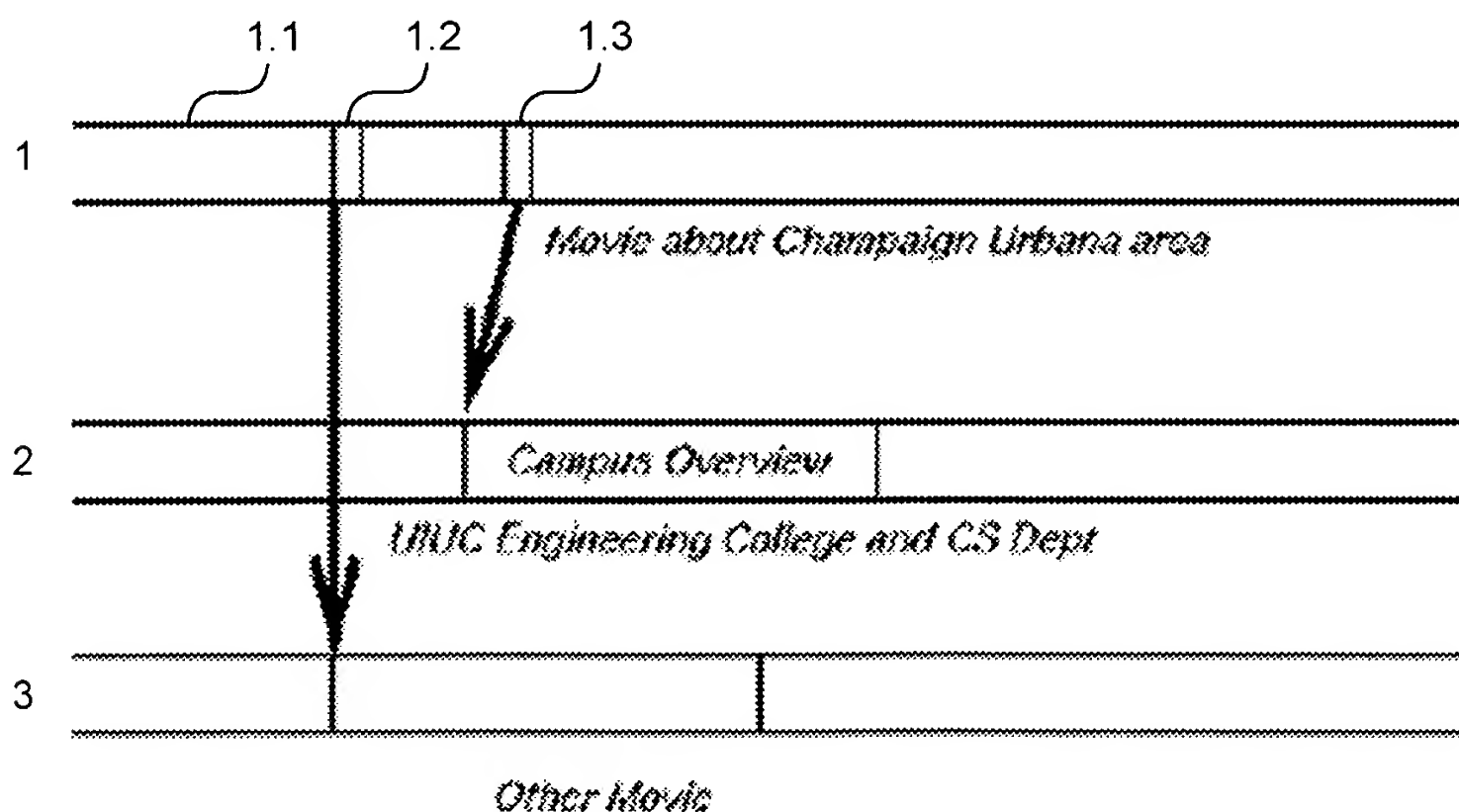

Figure 7: Dynamic composition of video streams

In Figure 7, the title of the video that is to be dynamically composed is "Movie about Champaign Urbana area." The pairs of horizontal lines 1-3 represent the video to be

dynamically composed and existing videos that are referenced by dynamic composition hyperlinks, and the vertical bars separate different portions of the videos. Referring to the pair of lines 1, which represents the video, the portion 1.1 represents frames actually in the video, the portion 1.2 represents a dynamic composition hyperlink to a clip of a video entitled "Other Movie," and the portion 1.3 represents a dynamic composition hyperlink to the clip entitled "Campus Overview" of the video entitled "UIUC Engineering College and CS Dept." These two dynamic composition hyperlinks are represented as arrows to the pairs of lines representing the existing videos. When the dynamic composition hyperlink to the shot entitled "Campus Overview" is encountered during presentation of the video, that shot is retrieved and presented as if its frames had been included in the video originally.

B.   Independent Claims on Appeal

1.   Claim 1

Claim 1 is a directed to a computer-readable media containing a computer program for annotating streaming media. The computer program allows a user to interactively create annotations that correspond to segments of a media stream. (Specification, 21:11-22:7.) The computer program also allows a user to graphically order the annotations in a desired order of presentation. (*Id.* at 30:4-15.) The computer program then sequentially presents the annotations along with the corresponding segments of the media stream in the desired order of presentation. (*Id.* at 31:8-11.)

2.   Claim 12

Claim 12 is directed to a method for seamlessly providing annotations and corresponding portions of a media stream in an order defined by annotation identifiers. The method receives from a user a selection of annotations corresponding to portions of the media stream. The method presents annotation identifiers to the user and allows the user to order the annotation identifiers. (*Id.* at 30:4-15.) The method then seamlessly provides the annotations and corresponding portions of the media stream in an order defined by the annotation identifiers. (*Id.* at 31:8-11.)

---

[3] The Examiner believes that Chen describes "reordering" of a video via dynamic composition. Applicant can

3.   Claim 34

Claim 34 is directed to a method for presenting annotations and corresponding media stream segments in a desired order. The method graphically orders annotations in a desired order in response to user input. (*Id.* at 30:4-15.) The annotations correspond to segments of a media stream. In response to a user instruction, the method sequentially presents the annotations along with the corresponding media stream segments in the desired order specified by the annotations. (*Id.* at 31:8-11.)

4.   Claim 48

Claim 48 is directed to a method for creating annotations and presenting the annotations and corresponding media stream segments in a desired order. The method allows a user to create annotations interactively. (*Id.* at 21:11-22:7.) The annotations correspond to segments of a media stream. The method graphically orders annotations in a desired order in response to user input. (*Id.* at 30:4-15.) In response to a user instruction, the method sequentially presents the annotations along with their corresponding media stream segments in the desired order. (*Id.* at 31:8-11.)

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   The Examiner's Rejections

The Examiner has rejected claims 1-6, 12-13, 34-37, and 48-51 under 35 U.S.C. § 102(a) as being anticipated by Chen.

The Examiner has rejected claims 1-6, 12-13, 34-37, and 48-51 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 6,173,317 and over claims 1-25 of U.S. Patent No. 6,484,156.[4]

B.   The Issues on Appeal

1.   Whether Chen's dynamic composition hyperlinks are annotations.

---

find nothing in Chen to suggest that, once a video is created, its frames can in any way be reordered.

[4] Applicant is puzzled by this rejection. The Examiner has not explained why the terminal disclaimers filed on May 19, 2004 were not sufficient to overcome this rejection.

2.   Whether Chen explicitly or implicitly states that annotations provide support for dynamic composition.

3.   Assuming, *arguendo*, that the Examiner is correct that Chen's dynamic composition hyperlinks are annotations, whether Chen presents these annotations along with the corresponding portions of the video.

4.   Whether Chen's "hierarchical indexes in Figure 4" are "annotation identifiers."

5.   Whether the Examiner has established a *prima facie* case of obviousness-type double patenting when the Examiner has provided no support for his position that the patents "contain every element of claims 22-23 of the instant specification."[5]

VII.   ARGUMENTS

A.   Legal Standards for Anticipation

The Examiner has rejected all the pending claims as being anticipated under 35 U.S.C. § 102(a), which provides:

A person shall be entitled to a patent unless—

(a)   the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

Anticipation requires that each claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg. & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). Indeed, the failure to mention "a claimed element (in) a prior art reference is enough to negate anticipation by that reference." *Atlas Powder Co. v. E.I. duPont De Nemours*, 750 F.2d 1569, 1574 (1984). To establish a *prima facie* case of anticipation, the Examiner must identify where "each and every facet of the claimed

---

[5] Applicant notes that claims 22-23 had already been canceled when this rejection was included in the last Office Action. So, applicant does not understand what is the relevance of canceled claims 22-23 to the pending claims.

invention is disclosed in the applied reference." *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1462 (Bd. Pat. App. & Interf. 1990).

B.   Chen's Dynamic Composition Hyperlinks Are Unrelated to Chen's Annotations

The Examiner believes that Chen's dynamic composition hyperlinks are annotations. The Examiner incorrectly assumes that every hyperlink of Chen is an annotation just because some hyperlinks are included in annotations. The Examiner is wrong. As explained below in detail, although dynamic composition and annotations both use hyperlinks, a dynamic composition hyperlink is not an annotation. Since dynamic composition hyperlinks are not identical to applicant's annotations, the Examiner has not established that the claims are anticipated.

Chen's annotations, which may include hyperlinks, are anchored to "objects inside a media stream [e.g., a video]" to serve as a link to data such as text describing the objects. When a user clicks on the representation of the annotation hyperlink, the linked data is retrieved and displayed to the user in much the same way as conventional web pages handle hyperlinks.

Chen's dynamic composition, in contrast, allows a video to be created that includes frames embedded within the video along with dynamic composition hyperlinks that reference segments of other videos. When the video is presented, Chen presents the embedded frames of the video and, when a dynamic composition hyperlink is encountered, Chen retrieves and presents the frames of the referenced segment. Thus, although the video as created does not contain all the frames of the video, Chen can dynamically compose a presentation of the video to present a continuous video with the included frames and frames referenced by dynamic composition hyperlinks. Chen's dynamic composition hyperlinks refer to segments outside the video being presented, while Chen's annotations are for describing objects inside the video.

Although annotations and dynamic composition both use hyperlinks, the Examiner's conclusion that dynamic composition hyperlinks are annotations is incorrect. The

Examiner is mixing up Chen's dynamic composition hyperlinks with Chen's annotations that can include hyperlinks. Annotations and dynamic composition are two distinct concepts, and Chen does not use annotations in dynamic composition.

The Examiner's conclusion that "Hyperlinks are annotations" (Office Action, Aug. 19, 2005, p. 3) is based on an incorrect interpretation of the citation upon which he relies. To support this conclusion, the Examiner cites the following from Chen:

"Annotations: Hyperlink specifications for objects inside the media streams."

(*Id.*, emphasis in the Office Action, but not in Chen.) Even assuming, *arguendo*, that this citation could be interpreted as implying that an "annotation is a hyperlink," it certainly does not suggest that all hyperlinks are annotations or that an annotation has anything to do with Chen's dynamic composition hyperlinks. Rather, this citation makes it clear that annotations are associated with objects inside the media stream. Referring to Figure 6 of Chen, the video includes a square outline, representing an annotation, around the black hole. When a user selects the outline, an HTML document that is about a black hole referenced by the hyperlink of the annotation is retrieved and presented to the user. A dynamic composition hyperlink, in contrast, is used when dynamically composing a video as shown by Figure 7 of Chen. Thus, this citation does not support the conclusion that all of Chen's hyperlinks are annotations and, in particular, that a dynamic composition hyperlink is an annotation.

C.   The Examiner's Position That Chen's Annotations Support Dynamic Composition Is Based on an Incorrect Interpretation of the Citation upon Which He Relies

The Examiner takes that position that Chen explicitly states that annotations provide support for dynamic composition. The Examiner's position is based on the incorrect assumption that just because some meta-information provides support for dynamic composition, all meta-information, including annotations, support dynamic composition. To support his position, the Examiner cites from Chen's introduction and states the following:

"The meta-information encompasses the inherent properties of the media, hierarchical information, semantic description, **as well as annotations** that provide

support for hierarchical access, browsing, searching, and **dynamic composition of continuous media**." The preceding text excerpt clearly states that meta information which includes annotation [sic] provides support for dynamic composition of continuous media i.e., movie.

(*Id.* at 2-3, emphasis in the Office Action, but not in Chen.) This introductory portion of Chen is simply stating that one or more classes of meta-information provide support for each of the listed functions. This citation does not imply that all classes provide support for all functions. Chen specifically discusses which classes of meta-information provide support for which functions at various points of Chen's discussion. For example, Chen makes it clear that the hierarchical structure class provides support for the function of hierarchical access. Chen, however, does not suggest that annotations provide support for dynamic composition.

The Examiner's position that this citation from Chen means that annotations provide support for dynamic composition is logically incorrect and not supported by the non-introductory portions of Chen. The Examiner is correct that meta-information includes annotations and that meta-information provides support for dynamic composition. Meta-information, however, includes classes of information other than annotations such as "inherent properties of media," "hierarchical information," and "semantic description." There is nothing in this citation that explicitly or implicitly states which classes of meta-information support the function of dynamic composition or any other of the recited functions (e.g., browsing) and certainly nothing which suggests that annotations in particular provide support for dynamic composition. From a sentence syntax point of view, one cannot conclude which classes of meta-information provide support for which of the functions. The Examiner's conclusion that all the classes of meta-information must provide support for all the functions is simply not supported by the syntax of this citation nor any other portion of Chen.

Moreover, Chen specifically states that "[d]ynamic composition of video and audio is made possible by frame addressing and hyperlinks." (Chen, p. 13.) "Frame addressing" is in the inherent properties class of meta-information and is unrelated to annotations. In addition, the sections of Chen that describe dynamic composition (i.e., 3.4 and 4.4) make

absolutely no reference to annotations let alone annotations providing support for dynamic composition.

D.   Chen Does Not Present Dynamic Composition Hyperlinks with Their Corresponding Portion of a Video

The Examiner's rejection relies on the interpretation that Chen's dynamic composition hyperlinks are annotations. As discussed above, a dynamic composition hyperlink is not an annotation. Given this incorrect interpretation, the Examiner argues that Chen's dynamic composition allows a video to "be dynamically composed of movie segments/clips from other movies i.e., the clips can be mixed and matched **or reordered**." (Office Action, Aug. 19, 2005, p. 10.)

However, even with this interpretation, Chen does not anticipate the claims. In particular, the claims recite, for example, "presenting annotations along with their corresponding identified media stream segments in the desired order of presentation." Chen's dynamic composition does not "present" dynamic composition hyperlinks, which the Examiner believes are annotations, along with portions of the video. Rather, the dynamic composition hyperlinks are used to retrieve the referenced portions of the videos. The dynamic composition hyperlinks are not displayed during the presentation of the video. Moreover, some of the claims (e.g., claim 2) explicitly state that "the annotations are textual annotations" and that "the presenting comprises displaying the textual annotations." Chen does not suggest that its dynamic composition hyperlinks reference text that is displayed during presentation of a video.

E.   Chen's Hierarchical Structure Is Unrelated to Annotations

It is the Examiner's position that Chen's hierarchical structure when presented graphically somehow relates to annotations. The Examiner is wrong. Chen's hierarchical structure and annotations are separate classes of meta-information that do not depend on each other or relate in any way.

Chen allows a user to define a hierarchical structure for a video. Figure 2 illustrates a hierarchical structure in which the video is defined by a hierarchy of clips and shots

within clips. Chen uses the hierarchical information to help users navigate through the video. Figure 4 illustrates a user interface that provides a graphical representation of the hierarchical information. When a user selects a node of the hierarchy corresponding to a clip or a shot, that clip or shot is presented to the user.

In contrast, an annotation added to an object within a video may include a hyperlink to additional information (e.g., an HTML document) with information about the object.

It is the Examiner's position that "the hierarchical indexes in Figure 4" of Chen correspond to "presenting a plurality of annotation identifiers" to a user as recited by applicant's claims. (Office Action, Aug. 19, 2005, p. 3.) Thus, in addition to taking the position that dynamic composition hyperlinks are annotations, the Examiner is additionally taking the position that identifiers of the annotations are somehow the same as the nodes of the hierarchical information even though Chen provides no support for this position.

First, although Chen's dynamic composition hyperlinks may point to a clip defined by Chen's hierarchical structure to identify a linked clip (see Figure 7 arrow to "Campus Overview"), dynamic composition has nothing to do with the display of Figure 4. Figure 4 simply illustrates hierarchical information of a video. There is nothing in Figure 4 to suggest that the hierarchy in any way relates to a dynamic composition.

Second, the Examiner has not explained what in Figure 4 of Chen is an "annotation identifier." Applicant can only assume that it is the name of a clip (e.g., "Campus Overview"). If this assumption is correct, then the Examiner apparently believes that the name of a clip is an annotation identifier. Therefore, the logical conclusion of the Examiner's position is that a clip is also an annotation. So, apparently the Examiner believes that dynamic composition hyperlinks are both annotations and clips. There is, of course, no support in Chen for such a position; annotations are very different from clips, and both annotations and clips are very different from dynamic composition hyperlinks.

F.   The Examiner Has Not Even Attempted to Provide Any Justification for the Obviousness-Type Double Patenting Rejection

The Examiner has not even established a *prima facie* case of obviousness-type double patenting. First, the Examiner contends that the

claims of U.S. Patent No. 6,173,317 and U.S. Patent No. 6,484,156 contain every element of claims 22-23 of the instant specification.

(Office Action, Aug. 19, 2005, p. 8.)   Even assuming, *arguendo*, that the Examiner is correct, applicant canceled claims 22-23 in the amendment of June 14, 2005, before issuance of the last Office Action of August 19, 2005.   Moreover, the Examiner has not explained how an analysis of canceled claims 22-23 could possibly relate to the pending claims.

Second, it is the Examiner's duty to make clear:

(A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue would have been an obvious variation of the invention defined in a claim in the patent.

(MPEP, 804.11.B.1.)   The Examiner has not attempted to identify these differences and not provided any explanation as to why one skilled in the art would find those differences to be obvious.   As such, the Examiner has not established a *prima facie* case of double patenting.

Third, applicant filed terminal disclaimers on May 19, 2004 for both of the patents that are the basis for this rejection. If the Examiner believes they are defective, he has not provided any explanation as to why.

G.   Rejection of the Claims as Being Anticipated by Chen

1.   Claims 1, 3, and 5-6

These claims recite "graphically ordering the annotations in a desired order of presentation in response to user input" and "sequentially presenting the annotations along with their corresponding identified media stream segments in the desired order of

presentation." These claims thus relate to ordering of annotations and presenting the annotations and segments according to the ordering. As discussed above in sections VII.B, VII.C, and VII.D, Chen's dynamic composition hyperlinks are not annotations, and, even if they were, the dynamic composition hyperlinks are not presented to a user along with portions of a video. Moreover, Chen does not describe that dynamic composition can be used to reorder a video. These claims are thus not anticipated by Chen.

2.   Claims 2 and 4

These claims, which depend from claim 1, are not anticipated for the same reasons why claim 1 is not anticipated. In addition, these claims recite that annotations are "textual annotations." Chen's dynamic composition hyperlinks reference video, not text. Thus these claims are not anticipated by Chen for this additional reason.

3.   Claim 12

Claim 12 recites "presenting a plurality of annotation identifiers," "allowing the ordering of the of the plurality of annotation identifiers to be changed," and "providing the . . . annotations and the portion of the media stream corresponding to each of the plurality of annotations in an order defined by the order of the plurality of annotation identifiers." These claims thus relate to ordering of annotations by ordering their annotation identifiers. As discussed above in sections VII.B, VII.C, VII.D, and VII.E, Chen does not describe annotation identifiers or changing the ordering of annotation identifiers. In addition, Chen does not describe "seamlessly providing" dynamic composition hyperlinks and portions of a media stream based on the ordering of the annotation identifiers. Chen also does not describe that dynamic composition can be used to reorder a video. Thus, Chen does not anticipate this claim.

4.   Claim 13

Claim 13, which depends from claim 12, is not anticipated for the same reasons why claim 12 is not anticipated. In addition, this claim recites "allowing the user to change the order of the plurality of annotation identifiers in a drag and drop manner." The Examiner has not even attempted to point to anything in Chen that suggests ordering anything by

dragging and dropping. As such, the Examiner has not even established a *prima facie* case of anticipation of this claim. Moreover, Chen makes no mention of dragging and dropping. Thus, Chen does not anticipate this claim for this additional reason.

5.   Claims 34, 36-37, 48, and 50-51

These claims recite "graphically ordering annotations in a desired order of presentation in response to user input" and "sequentially presenting the annotations along with their corresponding identified media stream segments in the desired order of presentation." These claims thus relate to the graphical ordering of annotations and the presenting of annotations along with their corresponding segments according to the ordering. As discussed above in sections VII.B, VII.C, and VII.D, Chen's dynamic composition hyperlinks are not identical to the claimed annotations. In addition, Chen does not describe the graphical ordering of dynamic composition hyperlinks or the presenting of dynamic composition hyperlinks along with segments of a video based on the reordering. Thus, these claims are not anticipated by Chen.

6.   Claims 35 and 49

These claims, which depend from claims 34 and 48, respectively, are not anticipated for the same reason as claims 34 and 48 are not anticipated. In addition, these claims recite that annotations are "textual annotations." Chen's dynamic composition hyperlinks reference video, not text. Thus, these claims are not anticipated by Chen for this additional reason.

H.   Rejection of the Claims Based on Obviousness-Type Double Patenting— Claims 1-6, 12-13, 34-37, and 48-51
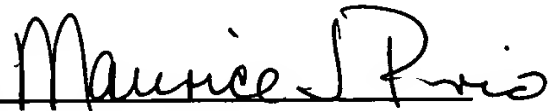
The Examiner has rejected all the pending claims based on obviousness-type double patenting. As discussed in section VII.F, the Examiner has provided no explanation of why the claims would be obvious in view of the claims of the cited patents. The Examiner only discusses claims 22-23, which have been canceled. Finally, applicant previously submitted a terminal disclaimer for the cited patents, and the Examiner has not provided any reason why the terminal disclaimers are not effective.

VIII. CONCLUSION

The Examiner relies on Chen's dynamic composition hyperlinks as being annotations. This reliance, however, is based on logically incorrect interpretations of various relied-upon portions of Chen. Because the Examiner misinterprets Chen, the Examiner's position on anticipation is also incorrect. Chen does not describe changing the order of portions of a video. Moreover, a dynamic composition hyperlink is not identical to the claimed annotation. Even if the Examiner's interpretation was correct, Chen still does not anticipate applicant's claims because Chen's dynamic composition hyperlinks are not presented along with the corresponding portion of a video as recited by the claims. Therefore, applicant respectfully requests that the rejections of the claims be reversed.

Dated: 5-19-06   Respectfully submitted,

                                   By _____
                                   Maurice J. Pirio
                                      Registration No.: 33,273
                                   PERKINS COIE LLP
                                   P.O. Box 1247
                                   Seattle, Washington 98111-1247
                                   (206) 359-8000
                                   (206) 359-7198 (Fax)
                                   Attorneys for Applicant

CLAIMS APPENDIX

1.   (Original)   One or more computer-readable media containing a computer program for annotating streaming media, wherein the program performs steps comprising:

creating annotations interactively with a user, wherein the annotations correspond to identified segments of one or more media streams;

graphically ordering the annotations in a desired order of presentation in response to user input; and

in response to a user instruction, sequentially presenting the annotations along with their corresponding identified media stream segments in the desired order of presentation.

2.   (Original)   One or more computer-readable media as recited in claim 1, wherein the annotations comprise textual annotations.

3.   (Original)   One or more computer-readable media as recited in claim 1, wherein the media streams comprise audio/visual video streams.

4.   (Original)   One or more computer-readable media as recited in claim 1, wherein:

the annotations are textual annotations;

the media streams are audio/visual video streams; and

the presenting step comprises displaying the textual annotations in one display area while displaying the corresponding segments of the audio/visual streams in another display area.

5.   (Original)   One or more computer-readable media as recited in claim 1, the steps further comprising storing the annotations and their desired order of presentation.

6.   (Original) One or more computer-readable media as recited in claim 1, the steps further comprising:

 storing the annotations and their desired order of presentation; and in response to a
  user request,
   retrieving the stored annotations and their desired order of presentation,
   displaying the retrieved annotations in their desired order of presentation,
    and
   retrieving and presenting the media stream segments identified by the
    retrieved annotations, in sequential order in accordance with the
    desired order of presentation of the retrieved annotations.

7-11. (Canceled)

12.   (Previously Presented) A method comprising:

receiving an indication of a plurality of annotations selected by a user, wherein each
  of the plurality of annotations corresponds to a media stream or to one or
  more media streams;

presenting a plurality of annotation identifiers to the user;

allowing the ordering of the plurality of annotation identifiers to be changed by the
  user;

seamlessly providing one or more of,
  the plurality of annotations, and
  at least a portion of the media stream corresponding to each of the plurality
   of annotations;

wherein the seamlessly providing comprises seamlessly providing the one or more
  of the plurality of annotations and the portion of the media stream
  corresponding to each of the plurality of annotations in an order defined by
  the order of the plurality of annotation identifiers.

13.   (Original) A method as recited in claim 12, further comprising: allowing the user to change the order of the plurality of annotation identifiers in a drag and drop manner.

14-33. (Canceled)

34.   (Previously Presented) A method comprising:

graphically ordering annotations in a desired order of presentation in response to user input, wherein the annotations correspond to identified segments of one or more media streams; and

in response to a user instruction, sequentially presenting the annotations along with their corresponding identified media stream segments in the desired order of presentation.

35.   (Previously Presented) A method as recited in claim 34, wherein:

the annotations are textual annotations;

the media streams are audio/visual video streams; and

the presenting comprises displaying the textual annotations in one display area while displaying the corresponding segments of the audio/visual streams in another display area.

36.   (Previously Presented) A method as recited in claim 34, further comprising storing the annotations and the desired order of presentation.

37.   (Previously Presented) A method as recited in claim 36, further comprising:

in response to a user request,

retrieving the stored annotations and the desired order of presentation,

displaying the retrieved annotations in their desired order of presentation, and

retrieving and presenting the media stream segments identified by the retrieved annotations, in sequential order in accordance with the desired order of presentation of the retrieved annotations.

38-47. (Canceled)

48.   (Previously Presented) A method comprising:

creating annotations interactively with a user, wherein the annotations correspond to identified segments of one or more media streams;

graphically ordering the annotations in a desired order of presentation in response to user input; and

in response to a user instruction, sequentially presenting the annotations along with their corresponding identified media stream segments in the desired order of presentation.

49.   (Previously Presented) A method as recited in claim 48, wherein:

the annotations are textual annotations; the media streams are audio/visual video streams; and

the presenting comprises displaying the textual annotations in one display area while displaying the corresponding segments of the audio/visual streams in another display area.

50.   (Previously Presented) A method as recited in claim 48, further comprising storing the annotations and their desired order of presentation.

51.   (Previously Presented) A method as recited in claim 48, further comprising:

storing the annotations and their desired order of presentation; and in response to a user request,

retrieving the stored annotations and their desired order of presentation,

displaying the retrieved annotations in their desired order of presentation, and

retrieving and presenting the media stream segments identified by the retrieved annotations, in sequential order in accordance with the desired order of presentation of the retrieved annotations.

52-91. (Canceled)

EVIDENCE APPENDIX

RELATED PROCEEDINGS APPENDIX